

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

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UNITED STATES OF AMERICA,

Plaintiff(s),

v.

DERRICK PHELPS, et al.,

Defendant(s).

Case No. 2:13-CR-83 JCM (CWH)

ORDER

Presently before the court is defendants Linda Mack, Tai Keyster, and Daryll Reese's motion for status conference. (Doc. # 202). The United States has not filed a response to the motion, and defendants represent that counsel for the government "does not object to a reset of the trial date." (Doc. # 202 at 3).

Also before the court is the United States' emergency motion (doc. # 208) to continue trial date and the response deadline to defendant Mack's motion (doc. # 203) to compel. Defendants have not filed responses.

Defendants' motion is a motion to continue trial dressed as a motion for status conference. Counsel for defendants Keyster and Reese indicate that due to conflicts in other cases throughout the month of March and into April, they will not be available for the current trial date of March 21, 2016. The defendants therefore request a "status check be held as soon as practicable to discuss alternative dates." (Doc. # 202 at 1). Defendants indicate that counsel for defendant Mack and counsel for the United States do not object to setting a new trial date. (*Id.* at 3).

The motion for a status conference will be denied. According to the motion, the parties agree that the trial date can be reset. It is not clear to the court why its participation in a conference to agree on a mutually acceptable trial date, clear of conflicts amongst the parties' counsel, is necessary. The court does not have any scheduling conflicts. The court instead encourages the

1 parties to confer amongst themselves, find a mutually acceptable trial date, and submit a stipulation
2 to continue trial to that date for the court's consideration.

3 The United States has also filed an emergency motion to continue trial dates. (Doc. # 208).
4 Current counsel for the government was assigned to the case on February 2, 2016. Counsel
5 represents that due to over 200,000 pages of discovery, she has not been able to prepare for trial
6 on short notice.

7 Moreover, the impending trial date has resulted in an expedited briefing schedule for
8 defendant Mack's motion to compel. (Doc. # 203). The United States filed a motion for extension
9 of time with respect to its response to Mack's motion. (Doc. # 205). Magistrate Judge Hoffman
10 denied that motion because of the current trial date of March 21, 2016. (Doc. # 206). Judge
11 Hoffman instead granted a brief extension to March 4, 2016. Counsel for the United States
12 represents in its present motion that it will be unable to prepare an adequate response to the motion
to compel by then. (Doc. # 208).

13 The United States therefore requests both a continuance of trial and an extension for its
14 response to defendant Mack's motion to compel. Defendants' status conference motion indicates
15 that counsel for defendants and the United States appear to have myriad conflicts. The court will
16 not choose a trial date for the parties by continuing the matter based only on the government's
17 representations of future availability, only to have scheduling issues with defense counsel surface
18 again. The government's motion to continue will therefore be denied without prejudice. Again, the
parties are encouraged to submit a stipulation for the court's consideration.

19 Similarly, until such time as the parties stipulate to a continuance and the court grants that
20 stipulation, trial is set for March 21, 2016. Accordingly, the court will not disrupt Judge Hoffman's
21 decision to deny the motion for extension of time, and the renewed motion for extension will also
22 be denied without prejudice. At such time as the trial has been continued to a date under which an
23 expedited briefing schedule is no longer necessary, the United States may resubmit its motion for
extension for the court's consideration.

24 Accordingly,

25 IT IS HEREBY ORDERED, ADJUDGED, AND DECREED that defendants Linda Mack,
26 Tai Keyster, and Daryll Reese's motion for status conference (doc. # 202) be, and the same hereby
27 is, DENIED.
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1 IT IS FURTHER ORDERED that the United States' emergency motion to continue trial
2 date and the response deadline to defendant Mack's motion to compel (doc. # 208) be, and the
3 same hereby is, DENIED.

4 DATED March 2, 2016.

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6 UNITED STATES DISTRICT JUDGE
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